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DEC 16 2004

DOCKET NO.: 216172US0 REISSUE

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

IN RE REISSUE APPLICATION OF: : ATTN: Examiner Venkat  
Myriam MELLUL, et al. :  
SERIAL NO.: 09/987,885 : Art Unit 1615  
FILED: NOVEMBER 16, 2001 :  
FOR: ANHYDROUS AND WATER-RESISTANT  
COSMETIC COMPOSITIONS

**SUPPLEMENTAL REISSUE DECLARATION**

COMMISSIONER OF PATENTS  
Alexandria, VA 22313

SIR:

Now comes Myriam Mellul, Paul Thau, Paul Fehn and Carlos Pinzon, who depose and state as follows:

1. That we are the original and first inventors of United States Letters Patent 5,985,297, issued November 16, 1999.
2. That we hereby offer to surrender original U.S. Patent 5,985,297.
3. That we, Myriam Mellul, Paul Thau, Paul Fehn and Carlos Pinzon, hereby declare that our residence, Post Office addresses and citizenships are as follows: Myriam Mellul, French citizen residing at L'Hay-Les-Roses, France, mailing address, 17, Rue De La Bievre, FRANCE 94240; Paul Thau, U.S. citizen residing at 181 Dogwood Lane, Berkely Heights, New Jersey 07922; Paul Fehn, U.S. citizen residing at 16 Normandy Drive, Westfield, New Jersey 07090; and Carlos Pinzon, U.S. citizen residing at 355 Shea Drive, New Milford, NJ 07646; and that we verily believe that we are the original, first and joint inventors of the invention entitled ANHYDROUS AND WATER-RESISTANT COSMETIC COMPOSITIONS, the specification

of which was filed on November 16, 2001, and amended by Preliminary Amendment on November 16, 2001.

4. That we have reviewed and understood the contents of the above-identified specification, including the claims, as amended by the Preliminary Amendment filed on November 16, 2001.

5. That we hereby claim priority benefits under 35 U.S.C. §120 of U.S. Serial No. 09/138,379, filed August 24, 1998, now U.S. 5,985,297; 08/882,298, filed June 25, 1997, now U.S. 5,849,316; and 08/538,046, filed October 2, 1995, now abandoned.

6. That we hereby claim foreign priority from French Application 94-11743, filed September 30, 1994.

7. That as named inventors, we hereby appoint the following attorneys to prosecute this application and transact all business in the Patent and Trademark Office connected therewith:

**Customer Number**

**22850**

including Norman F. Oblon, Reg. No. 24,618; Marvin J. Spivak, Reg. No. 24,913; C. Irvin McClelland, Reg. No. 21,124; Gregory J. Maier, Reg. No. 25,599; Arthur I. Neustadt, Reg. No. 24,854; Richard D. Kelly, Reg. No. 27,757; James D. Hamilton, Reg. No. 28,421; Eckhard H. Kuesters, Reg. No. 28,870; Robert T. Pous, Reg. No. 29,099; Charles L. Gholz, Reg. No. 26,395; Jean-Paul Lavalleye, Reg. No. 31,451; Stephen G. Baxter, Reg. No. 32,884; Richard L. Treanor, Reg. No. 36,379; Steven P. Weihrouch, Reg. No. 32,829; John T. Goolkasian, Reg. No. 26,142; Richard L. Chinn, Reg. No. 34,305; Carl E. Schlier, Reg. No. 34,426; James J. Kulbaski, Reg. No. 34,648; J. Derek Mason, Reg. No. 35,270; Michael E. McCabe, Reg. No. 37,182; and Jeffrey B. McIntyre, Reg. No. 36,867.

8. That as named inventors, we hereby request that all correspondence be sent to the firm of OBLON, SPIVAK, McCLELLAND, MAIER & NEUSTADT, P.C. whose Customer Number is:

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9. That we verily believe that U.S. Patent 5,985,297 is partly inoperative by reason of patentee claiming less than we had a right to claim in the patent.

10. One error relied upon herein is found in claim 1 of U.S. Patent No. 5,985,297, which recites, in relevant part, "from 10% to 90% of at least one silicone oil." Through the use of that claim language, we believe we claimed less than we had a right to claim in the patent.

11. To correct this error, new independent claims have been introduced replacing the phrase "from 10% to 90% of at least one silicone oil" with "at least one material selected from the group consisting of a volatile silicone oil, a nonvolatile silicone oil, and a crosslinked silicone."

12. Another error was the failure to claim a specific embodiment where a cosmetic lip composition is presented containing at least from 2% to 50% of at least one silicone gum, at least one crosslinked silicone resin, from 0.5% to 15% of at least one pigment, at least one gelling agent, and from 0 to 30% of at least one filler, where the silicone gum has a weight average molecular weight ranging from 200,000 to 1,500,000.

13. Every error in the patent which was corrected in the present reissue application, and is not covered by a prior Declaration submitted in this application, arose without any deceptive intention on the part of the applicant.

14. We acknowledge the duty to disclose to the Office all information known to Applicants to be material to patentability as defined in 37 CFR §1.56.

15. We declare further that all statements made herein of our own knowledge are true and that all statements made on information and belief are believed to be true; and further that

these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of this application or any patent issuing thereon.

16. Further deponent saith not.

\_\_\_\_\_  
Myriam Mellul

Date: \_\_\_\_\_

\_\_\_\_\_  
Paul Thau

Date: \_\_\_\_\_

\_\_\_\_\_  
Paul Fehn

Date: 12/8/04

\_\_\_\_\_  
Carlos Pinzon

Date: 12-08-04

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Myriam Melillo

Date: December 7<sup>th</sup> 2004

Paul Thau

Date: \_\_\_\_\_

Paul Fehn

Date: \_\_\_\_\_

Carlos Pinzon

Date: \_\_\_\_\_